

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 1388

97TH GENERAL ASSEMBLY

Reported from the Committee on the Judiciary and Civil and Criminal Jurisprudence, May 1, 2014, with recommendation that the Senate Committee Substitute do pass.

5048S.03C

TERRY L. SPIELER, Secretary.

AN ACT

To amend chapter 542, RSMo, by adding thereto one new section relating to location information of an electronic device.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 542, RSMo, is amended by adding thereto one new
2 section, to be known as section 542.375, to read as follows:

**542.375. 1. As used in this section, the following terms shall
2 mean:**

3 **(1) "Electronic communication service", a service that provides
4 to users of the service the ability to send or receive wire or electronic
5 communications;**

6 **(2) "Electronic device", a device that enables access to or use of
7 an electronic communication service, remote computing service, or
8 location information service;**

9 **(3) "Government entity", a state or local agency, including but not
10 limited to a law enforcement entity or any other investigative entity,
11 agency, department, division, bureau, board, or commission or a person
12 acting or purporting to act for or on behalf of a state or local agency;**

13 **(4) "Location information", information concerning the location
14 of an electronic device that, in whole or in part, is generated or derived
15 from or obtained by the operation of an electronic device;**

16 **(5) "Location information service", the provision of a global
17 positioning service or other mapping, locational, or directional
18 information service;**

19 **(6) "Remote computing service", the provision of computer
20 storage or processing services by means of an electronic**

21 communication system.

22 2. Except as provided in subsection 3 of this section, a
23 government entity shall not obtain the location information of an
24 electronic device without:

25 (1) A search warrant or investigative subpoena issued by a court
26 of competent jurisdiction; or

27 (2) An order for disclosure issued by a court of competent
28 jurisdiction after a government entity has offered specific and
29 articulable facts showing that there are reasonable grounds to believe
30 that the information sought is relevant and material to an ongoing
31 criminal investigation.

32 3. A government entity may obtain location information of an
33 electronic device under any of the following circumstances:

34 (1) The device is reported stolen by the owner;

35 (2) To respond to the user's call for emergency services;

36 (3) With the informed affirmative consent of the owner or user
37 of the electronic device; or

38 (4) A possible life-threatening situation exists.

39 4. Any evidence obtained in violation of this section is not
40 admissible in a civil, criminal, or administrative proceeding and shall
41 not be used in an affidavit of probable cause in an effort to obtain a
42 search warrant.

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